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**SEP 23 2005**

**OFFICE OF PETITIONS**

In re Application of :  
Dennis M. O'Connor et al :DECISION GRANTING FILING  
Application No. 10/773,847 :DATE OF February 5, 2004  
Filed: February 5, 2004 :  
Attorney Docket No. 42390.P15392 :

This is a decision on the petition filed April 21, 2005 which is being treated as a petition under 37 CFR 1.10, requesting that the above-identified application be accorded a filing date of February 5, 2004, rather than the presently accorded date of February 6, 2004.

Petitioner alleges that the Date-In field of the Express Mail label is incorrect because the Post Office clerk mistakenly inserted the time of submittal in both the "Date-In" entry and the "Time-In" entry. In support, petitioner has submitted a copy of the USPS Track & Confirm, which verifies the acceptance date as February 5, 2004 in Lake Oswego, OR., for Express Mail label No. EV325531759US. The same Express Mail receipt number appears on the original "Utility Patent Application Transmittal."

In view of the above, it is concluded that the application was deposited as "Express Mail" with the USPS on February 5, 2004.

The petition is granted.

The application file is being referred to the Office of Initial Patent Examination for processing with a filing date of **February 5, 2005**, and for the mailing of a corrected Filing Receipt.

Telephone inquiries specific to this decision on petition should be directed to Karen Creasy at (571) 272-3208.

Karen Creasy  
Petitions Examiner  
Office of Petitions  
Office of the Deputy Commissioner  
for Patent Examination Policy